

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Robert Woda,	:	
	:	
Plaintiff,	:	Case No. C2-99-479
	:	
v.	:	Judge Holschuh
	:	
City of Columbus, et al.,	:	Magistrate Judge King
	:	
Defendants.	:	

JOINT MOTION OF THE PARTIES

All of the parties jointly move, pursuant to Fed. R. Civ. P. 60(b), as contemplated in *First National Bank of Salem, Ohio v. Hirsch*, 535 F.2d 343 (6th Cir. 1976), for relief from this Court's judgment of July 8, 2003.

A memorandum in support is attached.

Respectfully submitted,

CITY OF COLUMBUS, DEPARTMENT OF LAW
RICHARD C. PFEIFFER, JR., CITY ATTORNEY

s/James McNamara per phone authority 12/5/03
James McNamara (0002461)
326 South High Street, Suite 300
Columbus, Ohio 43215
614-461-5788
Attorney for Plaintiff

s/Timothy J. Mangan
Timothy J. Mangan (0025430)
Assistant City Attorney
90 West Broad Street, Room 200
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Attorney for Defendants

MEMORANDUM IN SUPPORT

This Court, on July 8, 2003, entered a final judgment, from which defendants appealed and plaintiff filed a cross-appeal. While on appeal, and pursuant to discussions under Rule 33, Rules of the Sixth Circuit, the parties have reached an agreement to settle this matter. One of the terms of this agreement is that the judgment of July 8, 2003, be vacated, and that the case would be dismissed, with prejudice, by this Court.

The parties, absent any particularly novel issue on appeal and recognizing the risks associated with continued litigation of this matter, deem it in their best interests to withdraw their respective appeals and request remand to this Court for vacation of the July 8, 2003, order and dismissal of the matter pursuant to the aforementioned settlement.

In order to make this settlement possible, therefore, the parties respectfully request this Court to indicate its willingness to grant this motion by entry of the attached order saying it is "disposed to grant the motion" if the Court of Appeals remands the case for that purpose. *First National Bank of Salem*, 535 F.2d at 346.

Respectfully submitted,

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Attorney for Defendants

CERTIFICATE OF SERVICE

This will certify that a copy of the foregoing **Joint Motion of the Parties** was served by electronic service and U.S. Mail, postage prepaid, to James McNamara, Attorney for Plaintiff, at 326 South High Street, Suite 300, Columbus, Ohio 43215, this 8th day of December 2003.

s/Timothy J. Mangan
Timothy J. Mangan
Assistant City Attorney